

ATTORNEY DOCKET NO. SD-6594.1/S93878  
SERIAL NO. 09/927,691  
PATENT

### REMARKS

Claims 1-22 are pending in the application.

Claims 1-22 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Automatic Scheme Selection for Toolkit Hex Meshing, International Journal for Numerical Methods in Engineering, Volume 49, July 18, 2000, pp. 127-144* by White, et al. ("White").

Applicants have herein amended the specification to include an unintentionally omitted claim to the benefit under 35 U.S.C. § 119(e) of a prior filed provisional application.

Applicants respectfully submit that the present application (Attorney Docket No. SD-6594.1/S93878), which was filed on August 8, 2001 with a Non-Publication Request under 35 U.S.C. § 122(b)(2)(B)(i), unintentionally failed to claim priority to an earlier filed provisional application (Serial No. 60/226,445, Attorney Docket No. SD-6594/S93878) which was filed on August 17, 2000, only one month after the White publication. Applicants were not aware of the unintentional omission until preparation for this response to the Office Action mailed December 23, 2004. Attached please find a copy of the Petition to Claim Benefit Under 35 U.S.C. § 119(e) of Prior Filed Provisional Application (37 C.F.R. § 1.78(a)(6)) which was filed for the present application.


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In view of the foregoing, Applicant respectfully submits that Claims 1-22 are allowable and requests notice to that effect.

Further and favorable consideration is respectfully requested.

Date: 03/23/05

Respectfully submitted,

  
Madelynn J. Faber  
Registration No. 45,410

Sandia National Laboratories  
P.O. Box 5800, MS 0161  
Albuquerque, NM 87185-0161  
(p) 505-844-3858, (f) 505-844-9955

Practitioner's Docket No. SD-6594.1/S93878

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Timothy J. TautgesApplication No.: 09 A27,691 Group No.: 2128Filed: August 8, 2001Examiner: Phan, Thai QFor: AUTOMATIC DETECTION OF SWEEP-MESHABLE VOLUMES

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450, Alexandria, VA 22313-1450

PETITION TO CLAIM BENEFIT UNDER 35 U.S.C. 119(e)  
OF PRIOR FILED PROVISIONAL APPLICATION  
(37 C.F.R. 1.78(a)(6))

NOTE: 37 C.F.R. 1.78(a): "(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (i) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph (a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

ve ☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10 \*

☐ with sufficient postage as first class mail.☒ as "Express Mail Post Office to Addressee"Mailing Label No. EV332390098 U.S. (mandatory)

## TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_Date: 3/22/05

Signature

VIOLA CAMPOS

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.010) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Petition To Claim Benefit Under 35 U.S.C. 119(e) of Prior Filed Provisional Application(s) [5-1.6])

—page 1 of 2

(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

.....

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional."

1. Applicant hereby petitions, in accordance with § 1.78(a)(6), to claim the benefit, for this application under 35 U.S.C. 119(e) of prior provisional application(s):

Provisional application No: 60/226,445 filed August 17, 2000

2. Applicant states that the entire delay between the date the claim for the benefit of the earlier application was due under paragraph (a)(5)(i) of 37 C.F.R. § 1.78 and the date this claim is filed was unintentional.

3. The surcharge fee set forth in § 1.17(t), required by 37 C.F.R. 1.78(a)(6)(ii), is paid as follows:

☐ Attached is a ☐ check ☐ money order in the amount of

☒ Authorization is hereby made to charge the amount of

\$1370.00

☒ to Deposit Account No.

☐ to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No. 45,410

Tel. No.: (505) 844-3858

Customer No.: 020567

Madeleine J. Farber  
SIGNATURE OF PRACTITIONER

MADELYNNE J. FARBER  
(type or print name of practitioner)

P.O. Box 5800, N/S 041  
P.O. Address

ALBUQUERQUE, NM 87185-0411

(Petition To Claim Benefit Under 35 U.S.C. 119(e) of Prior Filed Provisional Application(s) [5-1.6])

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